

# FISCAL NOTE

**Bill #:** SB0258

**Title:** Revise compensation of surface owner for damage by oil and gas operation

**Primary Sponsor:** Wheat, M

**Status:** As Amended in Senate Committee

Sponsor signature	Date	David Ewer, Budget Director	Date
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## Fiscal Summary

	<b><u>FY 2006 Difference</u></b>	<b><u>FY 2007 Difference</u></b>
<b>Expenditures:</b>		
State Special Revenue	\$100,352	\$94,400
<b>Revenue:</b>		
State Special Revenue	\$0	\$0
<b>Net Impact on General Fund Balance:</b>	\$0	0

- |   |  |
|---|--|
| <input type="checkbox"/> Significant Local Gov. Impact    | <input checked="" type="checkbox"/> Technical Concerns           |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts           |
| <input type="checkbox"/> Dedicated Revenue Form Attached  | <input checked="" type="checkbox"/> Needs to be included in HB 2 |

## Fiscal Analysis

### ASSUMPTIONS:

#### **Dept. of Natural Resources and Conservation (DNRC)**

- There are three functional components would be involved in Oil and Gas implementation of the bill as amended.
  - Processing the operator statement that must be filed with each permit to drill regarding surface owner contact information and whether or not a surface agreement exists.
  - Processing disputed surface damage permits to drill, collecting disputed surface damage bonds, and notifying surface owners of bond receipt.
  - Releasing disputed surface damage bonds after determining all surface damage compensation has been made.
- Processing operator statements would require an additional 1,800 hours of staff time, as it would take an additional two hours for each permit. (900 permits X two hours additional each.)
- It is estimated one-fourth of all drilling permits or 225 drilling permits per year, could have disputes between the operator and surface owner regarding surface damage amounts. Processing these disputed permits, collecting and processing required bonds, and sending certified notice to surface owners when bonds have been filed with the board will require an additional 900 hours of staff time, as it would take an additional four hours of work for each disputed drilling permit. (225 disputed permits X 4 hours each.)

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4. Releasing surface damage bonds after assuring all compensation for damages has been paid will also require an additional 900 hours of staff time, as it will take four hours for each disputed permit (225 disputed permits per year) to perform this function.
5. The three new functional components required to implement this bill require a total of 3,600 hours of additional staff time. The board would need 2.00 FTE to perform the functions associated with this bill.
6. The additional 2.00 FTE necessary to implement this bill would require computers @ \$1,273 each, and a desk, office chair, and office supplies @ \$1,703 each in fiscal year 2006 (\$2,976 x 2 = \$5,952).
7. For each FTE the additional cost to the Board of Oil and Gas, including start-up and continuing operating expenses (postage and mailing, terminal hookup, office supplies, etc.) would be \$6,900 per year.
8. The total funding required would be \$100,352 in FY 2006 and \$94,400 in FY 2007. Funding would come from state special revenue from the board's privilege and license tax account.

### FISCAL IMPACT:

	FY 2006 <u>Difference</u>	FY 2007 <u>Difference</u>
FTE	2.00	2.00
<u>Expenditures:</u>		
Personal Services	\$87,500	\$87,500
Operating Expenses	<u>12,852</u>	<u>6,900</u>
TOTAL	\$100,352	\$94,400
<u>Funding of Expenditures:</u>		
State Special Revenue (02)	\$100,352	\$94,400
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
State Special Revenue (02)	(\$100,352)	(\$94,400)

### TECHNICAL NOTES:

1. SB 258, as amended, does not include rulemaking authority for the Board of Oil and Gas. Rulemaking would be necessary to implement the bonding portion of the bill.
2. SB 258 does not specify the circumstances or timeline in which the bond would be forfeited and proceeds made available to the surface owner if compensation is not paid, or partially paid. Presumably, the board would forfeit the bond after notice and public hearing; costs associated with board hearings are not included in the above estimate.
3. The State of Montana owns and manages approximately one million acres of school trust split mineral estate. SB 258 and current statute include compensation for loss of land value by the surface estate owner. SB 258 deletes existing statutory clarification that compensation "may only cover land directly affected by drilling operations and production." This deletion may allow surface estate owners to claim indirect or intangible loss of land value. Recognition of such claims could conflict with the mineral owner's existing property right (including state school trust mineral ownership) to make reasonable use of the surface, subject to compensation for direct damages to the surface owner's property.
4. The bill title has been amended to include the requirement that mineral lessees notify surface owners of leasing. Page 2, lines 17-19 require the entity leasing the interest to provide notice of leasing or conveyance. For clarity and consistency, it is recommended Page 2, lines 17-19 be amended to require the mineral lessee to provide notification to surface owner upon leasing, consistent with bill title.